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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,288	06/23/2006	Kouichi Sada	17214/013001	8000

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EXAMINER

MCGUTHRY BANKS, TIMA MICHELE

ART UNIT	PAPER NUMBER
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1793

NOTIFICATION DATE	DELIVERY MODE
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01/14/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@oshaliang.com
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Office Action Summary	Application No. 10/584,288	Applicant(s) SADA, KOUICHI	
	Examiner TIMA M. MCGUTHRY-BANKS	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/23/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

Claims 1-10 are currently amended.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 9/23/08 was filed after the mailing date of the non-final rejection on 8/11/08. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Minnick (US 3,645,719).

Minnick is applied as discussed in the office action mailed 11 August 2008. The iron oxide is in the form of iron oxide-rich dust, such as dust reclaimed from steel making furnace stacks (column 4, lines 27-30). It is inherent that the dust would be collected with a dust collector.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US 2002/0020108 A1).

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Anderson is applied as discussed in the office action mailed 11 August 2008. The small particles are fines from dust produced by blast furnaces and electric arc furnace [0011]. It is well known in the art that these furnaces are used to produce iron and steel. It is inherent that the dust would be collected with a dust collector.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Nayak et al (US 6,921,427 B2).

Nayak et al is applied as discussed in the office action mailed 11 August 2008. Nayak et al also teaches using blast furnace fines and BOF fines (column 4, lines 11 and 12). It is well known in the art that these furnaces are used to produce iron and steel. It is inherent that the dust would be collected with a dust collector.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Weinwurm et al (US 5,906,671).

Weinwurm et al is applied as discussed in the office action mailed 11 August 2008. Weinwurm et al also teaches using iron and steel dust from industrial waste by products (column 1, lines 12 and 13, and column 2, lines 28 and 29). . It is inherent that the dust would be collected with a dust collector.

Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 07102302.

JP '302 is applied as discussed in the office action mailed 11 August 2008.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson.

Anderson is applied as discussed in the office action mailed 11 August 2008.

Response to Arguments

Applicant's arguments filed 12 November 2008 have been fully considered but they are not persuasive. Applicant argues that Minnick does not show or suggest the reuse of dust. However, Minnick teaches using iron oxide as described above.

Applicant argues that Anderson does not show or suggest the reuse of dust. However, Anderson teaches that the small particles are fines from dust produced by blast furnaces and EAF as described above.

Applicant argues that Nayak et al is different from the present invention with respect to the starting material and the desired goal. Patents are relevant as prior art for all they contain: A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. Additionally, nonpreferred and alternative embodiments constitute prior art; disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. See MPEP § 2123. Additionally, applicant argues that Nayak et al does not show or suggest the reuse of dust. Nayak et al teaches using blast furnace fines and BOF fines as discussed above.

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Applicant argues that Weinwurm et al teaches the separation and recovery of metals and metal oxides from industrial by-products and waste materials. Patents are relevant as prior art for all they contain: A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments.

Additionally, nonpreferred and alternative embodiments constitute prior art; disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. See MPEP § 2123. Additionally, applicant argues that Weinwurm et al does not show or suggest the reuse of dust. This argument is addressed with as stated above in this section and in the rejection.

Applicant argues that JP '302 is different from the present invention. However, the manner of operating a device does not differentiate the apparatus claim from the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMA M. MCGUTHRY-BANKS whose telephone number is (571)272-2744. The examiner can normally be reached on M-F 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy King/
Supervisory Patent Examiner, Art Unit
1793

/T. M. M./
Examiner, Art Unit 1793
12 January 2009